

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ELIJAH PAUL EMA, :
:
Petitioner :
v. : 1:21-CV-172
: (JUDGE MARIANI)
ROBERT WILKINSON, et al., :
:
Respondents :
:

ORDER

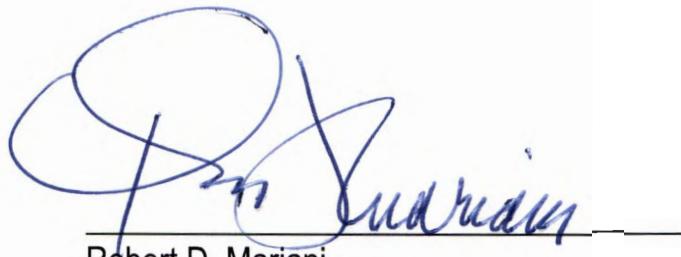
AND NOW, THIS 27TH DAY OF AUGUST, 2021, upon review of Magistrate Judge Schwab's Report and Recommendation ("R&R") (Doc. 8) for clear error or manifest injustice, IT IS HEREBY ORDERED THAT:

1. The R&R (Doc. 8) is **ADOPTED** for the reasons set forth therein.¹
2. Respondents Robert Wilkinson, David Pekoske, ICE, Tae Johnson, and Clair Doll are **DISMISSED** from this action.
3. The Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 is **DENIED** and the Petition is **DISMISSED WITHOUT PREJUDICE**.

¹ At the time the R&R was issued, Petitioner had been detained for approximately six and-a-half months, which the Magistrate Judge found was not unreasonable in analyzing the first *German Santos* factor (duration of detention). The Court acknowledges that, at this time, Petitioner has now been detained for almost one year. However, as noted in the R&R, this length of duration still does not necessarily qualify as unreasonable. (See Doc. 8, at 11-13). The Court further notes that Petitioner is no longer incarcerated at York County Prison, but, according to the ICE inmate locator system, is now detained at the Glades County Detention Center in Florida. This renders moot the Magistrate Judge's analysis of the fourth *German Santos* factor (whether conditions under which alien is confined differ meaningfully from criminal punishment), and the issue of whether the conditions at the Glades County Detention Center support a finding of unreasonableness are best addressed in a renewed § 2241 petition in the appropriate District Court, should Petitioner deem necessary.

4. A Certificate of Appealability **SHALL NOT ISSUE**.

5. The Clerk of Court is directed to **CLOSE** this case.



Robert D. Mariani
United States District Judge